

Introduced by Senator Johnson

February 24, 2000

An act to amend Sections 100700, 100710, 100715, 100720, 100735, 100745, and 100750 of, and to add Sections 100701, 100702, and 100703 to, the Health and Safety Code, relating to laboratories.

LEGISLATIVE COUNSEL'S DIGEST

SB 1849, as introduced, Johnson. Laboratories: licensing and accreditation.

Under existing law, the State Department of Health Services is required to adopt and publish regulations to be used in approving and governing the operation of laboratories conducting testing by or for law enforcement agencies of blood, urine, or tissue for the purposes of determining the concentration of ethyl alcohol in the blood of persons involved in traffic accidents or in traffic violations, and the testing of breath samples under the same circumstances.

This bill would require the department to revise, adopt, and publish regulations, in accordance with specified reference materials, to be used in approving and governing the operation of laboratories engaging in breath testing under the circumstances described above. The bill would require the department to convene a review committee, with specified components and duties, prior to adopting the regulations, and to submit the proposed regulations to the committee for review.

This bill would additionally authorize the performance of the blood, urine, or tissue tests described above by a

laboratory holding a current accreditation to perform the test from the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB). The bill would require the department to issue a license to a laboratory so accredited, and would exempt these laboratories from departmental regulations governing blood, urine, and tissue tests, except with respect to proficiency testing requirements. The bill would require the department to accept proof of inspection by the ASCLD/LAB in satisfaction of the department's existing inspection requirement. The bill would make additional conforming changes to existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 100700 of the Health and Safety
2 Code is amended to read:
3 100700. The department shall adopt and publish
4 regulations to be used in approving and governing the
5 operation of laboratories engaging in the performance of
6 tests referred to in ~~Sections~~ Section 100710 and 100715,
7 including the qualifications of the employees who
8 perform the tests, that ~~it determines~~ *are determined*,
9 *pursuant to Sections 100701 and 100703, to be* reasonably
10 necessary to ensure the competence of the laboratories
11 and employees to prepare, analyze, and report the results
12 of the tests.
13 SEC. 2. Section 100701 is added to the Health and
14 Safety Code, to read:
15 100701. On or before July 1, 2002, the department
16 shall revise, adopt, and publish regulations to be used in
17 approving and governing the operation of laboratories
18 and law enforcement agencies engaging in the
19 performance of the tests referred to in Section 100715.
20 The regulations shall incorporate the Model
21 Specifications for Evidential Breath Testing Devices and
22 the Model Specifications for Calibrating Units for Breath
23 Alcohol Testers as published in the Federal Register by
24 the National Highway Traffic Safety Administration of

1 the United States Department of Transportation. The
2 revised regulations shall be adopted only after the
3 department has convened a review committee pursuant
4 to Section 100703, and the review committee has
5 determined that the regulations are limited to
6 requirements that the review committee finds are
7 reasonably necessary to ensure the competence of the
8 laboratories or persons conducting the tests.

9 SEC. 3. Section 100702 is added to the Health and
10 Safety Code, to read:

11 100702. (a) Regulations adopted pursuant to this
12 article governing the tests referred to in Section 100710
13 shall not apply to a laboratory holding a current
14 accreditation to perform the tests referred to in Section
15 100710 from the American Society of Crime Laboratory
16 Directors/Laboratory Accreditation Board.

17 (b) Notwithstanding subdivision (a), the department
18 may continue to impose proficiency testing requirements
19 on any laboratory engaging in the performance of tests
20 referred to in Section 100710.

21 SEC. 4. Section 100703 is added to the Health and
22 Safety Code, to read:

23 100703. (a) On or before July 1, 2001, and at least
24 once in each five-year period thereafter, the department
25 shall convene a review committee to evaluate regulations
26 proposed or adopted by the department pursuant to this
27 article. The review committee shall be appointed by the
28 director of the department, and shall have nine members,
29 including one person representing each of the following:

- 30 (1) The Attorney General.
- 31 (2) The California Highway Patrol.
- 32 (3) District attorneys.
- 33 (4) Public defenders.
- 34 (5) Coroners.
- 35 (6) Criminalists.
- 36 (7) Pathologists.
- 37 (8) Analytical chemists.
- 38 (9) Forensic laboratory managers.

39 (b) The review committee shall examine the
40 regulations adopted by the department pursuant to this

1 article, and recommend revisions that will limit the
2 regulations to requirements the review committee
3 determines are reasonably necessary to ensure the
4 competence of the laboratories and employees to
5 prepare, analyze, and report the results of the test.

6 (c) The department shall adopt the revisions
7 recommended by the review committee.

8 SEC. 5. Section 100710 of the Health and Safety Code
9 is amended to read:

10 100710. The testing by or for law enforcement
11 agencies of blood, urine, or tissue for the purposes of
12 determining the concentration of ethyl alcohol in the
13 blood of persons involved in traffic accidents or in traffic
14 violations shall be performed only by a laboratory
15 approved and licensed by the director for the
16 performance of these tests, *or by a laboratory holding a*
17 *current accreditation to perform those tests from the*
18 *American Society of Crime Laboratory*
19 *Directors/Laboratory Accreditation Board.*

20 SEC. 6. Section 100715 of the Health and Safety Code
21 is amended to read:

22 100715. The testing of breath samples by or for law
23 enforcement agencies for purposes of determining the
24 concentration of ethyl alcohol in the blood of persons
25 involved in traffic accidents or in traffic violations shall be
26 performed in accordance with regulations adopted by the
27 department *pursuant to Section 100701.*

28 The regulations shall establish the procedures to be
29 used by law enforcement agencies in administering
30 breath tests for the purposes of determining the
31 concentration of ethyl alcohol in a person's blood. The
32 regulations shall be adopted and published in accordance
33 with Chapter 3.5 (commencing with Section 11340) of
34 Part 1 of Division 3 of Title 2 of the Government Code.

35 SEC. 7. Section 100720 of the Health and Safety Code
36 is amended to read:

37 100720. Each laboratory in the state that performs the
38 tests referred to in Sections 100710 and 100715, shall be
39 licensed by the director. *The director shall issue a license*
40 *to any laboratory that presents proof of a current*

1 *accreditation to perform the tests referred to in Section*
2 *100710 from the American Society of Crime Laboratory*
3 *Directors/Laboratory Accreditation Board.* Each of these
4 laboratories, other than a laboratory operated by the
5 state, city or county or other public agency shall upon
6 application for licensing pay a fee to the department in
7 an amount, to be determined by the department, that will
8 reimburse the department for the costs incurred by the
9 department in the issuance and renewal of these licenses.
10 On or before each January 1 of each year thereafter, each
11 of these laboratories shall pay to the department a fee so
12 determined by the department.

13 SEC. 8. Section 100735 of the Health and Safety Code
14 is amended to read:

15 100735. (a) Every approved and licensed laboratory
16 shall be periodically inspected by the department.
17 Reports of each inspection shall be prepared on forms
18 furnished by the department and shall be filed with the
19 department.

20 (b) *The department shall accept proof of inspection*
21 *by the American Society of Crime Laboratory*
22 *Directors/Laboratory Accreditation Board, with respect*
23 *to a laboratory exempt from departmental regulatory*
24 *requirements pursuant to Section 100702, as satisfying the*
25 *requirements of this section.*

26 SEC. 9. Section 100745 of the Health and Safety Code
27 is amended to read:

28 100745. The director may deny a license if the
29 applicant or any partner, officer or director thereof:

30 (a) ~~Fails~~ *Except as provided in Section 100702, fails to*
31 *meet the qualifications established by the department*
32 *pursuant to this article for the issuance of the license*
33 *applied for.*

34 (b) *Was previously the holder of a license issued under*
35 *this article that was revoked and never reissued or that*
36 *was suspended and the terms of the suspension have not*
37 *been fulfilled.*

38 (c) *Has committed any act involving dishonesty,*
39 *fraud, or deceit whereby another was injured or whereby*
40 *the applicant has benefited.*

1 SEC. 10. Section 100750 of the Health and Safety Code
2 is amended to read:

3 100750. The director may suspend, revoke, or take
4 other disciplinary action against a licensee as provided in
5 this article if the licensee or any partner, officer or
6 director thereof:

7 (a) ~~Violates~~ *Except as provided in Section 100702,*
8 *violates* any of the regulations adopted by the
9 department pursuant to this article.

10 (b) Commits any act of dishonesty, fraud, or deceit
11 whereby another is injured or whereby the licensee
12 benefited.

13 (c) Misrepresents any material fact in obtaining a
14 license.

15 (d) *With respect to a laboratory exempt from*
16 *departmental regulatory requirements pursuant to*
17 *Section 100702, has its accreditation by the Proficiency*
18 *Review Committee of the American Society of Crime*
19 *Laboratory Directors/Laboratory Accreditation Board*
20 *suspended or revoked.*

